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April 2, 2003

TO: INTERESTED PARTIES

Enclosed is a copy of Current Legal Digest (CLD) number 2003-1 for your information and review. The annotations included in this CLD are new proposed annotations (underlined) and/or suggested revisions of existing annotations (indicated by ~~strikeout~~ and underline). After review, please submit any questions, comments, or suggestions for changes *in writing* by **Friday, May 2, 2003**, and mail or fax them to:

Board of Equalization
Assessment Policy and Standards Division
ATTN: Annotation Coordinator
P. O Box 942879
Sacramento, CA 94279-0064

Please note, the new annotations and/or suggested revisions of existing annotations contained in the attached CLD are *drafts* and may not accurately reflect the Board's official position on certain issues nor reflect the language that will be used in the final annotation, if formally adopted.

CLD's are circulated for 30 days, at which time any questions are addressed and/or suggested modifications taken into consideration. After approval of the final version by the Board's Legal Department, they will be printed in Volume 3 of the Property Taxes Law Guide. At that time, the CLD becomes obsolete.

If you would like any copies of the backup correspondence, please contact Glenna Schultz at (916) 324-5836 or glenna.schultz@boe.ca.gov.

Sincerely,

/s/ *David J. Gau*

David J. Gau
Deputy Director
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DJG/grs
Enclosure

PROPERTY AND SPECIAL TAXES DEPARTMENT

PROPERTY TAXES CURRENT LEGAL DIGEST NO. 2003-1

April 2, 2003

200.0000(a) BASE YEAR VALUE TRANSFER—PRINCIPAL RESIDENCE

200.0053 **Multiple Units.** An apartment over a garage that was not rented but rather used for guests and family members may be considered as part of the principal residence unless there is evidence that the homeowner executed a lease or otherwise used the apartment for purposes incompatible with the homeowners' exemption. C 10/7/2002.

215.0000 CERTIFICATED AIRCRAFT

215.0020 **Foreign-Owned Aircraft.** Aircraft owned by foreign governments are exempt from personal property taxation by Revenue and Taxation Code ~~Section~~section 5331. Aircraft owned, based and registered abroad and used exclusively in international commerce are exempt from property taxation (*Scandinavian Airlines System, Inc. v. Los Angeles County*, 56 Cal.2d 11, cert. denied, 368 U.S. 899). Since foreign carriers cannot engage in interstate commerce, no foreign aircraft are subject to property taxation. C 11/1/82; C 10/21/2002.

220.0000 CHANGE IN OWNERSHIP

220.0434 **Mobilehome Parks.** Revenue and Taxation Code section 62.1(b)(1) provides for the pro rata reassessment of the property of resident-owned mobilehome parks upon the transfer, on or after January 1, 1989, of ownership or membership interests in the entity owning the park. Subdivisions (b)(4)(A) and (b)(4)(C) provide that, where pro rata changes in ownership occurred between January 1, 1989, and January 1, 2002, for which the assessor did not, prior to January 1, 2000, levy any assessments, the assessor is prohibited from levying any escape or supplemental assessments and must cancel any unpaid taxes on assessments levied between January 1, 2000 and January 1, 2002. However, the assessor is to include in the value on the regular roll for the January 1, 2001, lien date, the reassessed value attributable to all prior pro rata changes in ownership, even those that occurred prior to 2000 which were not discovered or assessed in prior years. These provisions do not apply to a timely assessment made for the 2001 lien date of a pro rata change in ownership that occurred in 2000. C 10/2/2002.

660.0000 POSSESSORY INTEREST

660.0365 **Vending Machines.** A beverage manufacturer's right to occupy space in public schools for its vending machines and other equipment creates a possessory interest if the right is durable, exclusive, conveys a private benefit, and is sufficiently independent to constitute more than a mere agency. However, the possessory interest that arises from the agreement between the school district and the company is exempt as property used exclusively for public school purposes under section (3)(d) of article XIII of the California Constitution and section 202(a)(3) of the Revenue and Taxation Code. School

districts are authorized to furnish food service in section 39871 of the Education Code; therefore, vending machines dispensing food items are a service that is directly related to and in furtherance of a public school purpose. Assuming that the beverages dispensed in the vending machines can be classified as a food product, the school district's agreement with the beverage company permits an incidental use of school property that is in furtherance of the primary purpose of the school district. C 10/4/2002.

690.0000 PUBLIC SCHOOLS EXEMPTION

690.0101 Vending Machines. Personal property used exclusively in a school district's performance of certain authorized activities is qualified for the public schools exemption. Education Code section 39871 authorizes school districts to furnish food service; therefore, vending machines dispensing food items are a service that is directly related to and in furtherance of a public school purpose. Assuming that the beverages dispensed in the vending machines can be classified as a food product, the vending machines are personal property used exclusively in the performance of certain authorized activities, which are exempt under section 202(a)(3) of the Revenue and Taxation Code. As use of the property is the criteria for the public school exemption, the ownership of the vending equipment is immaterial. C 10/4/2002.